

PROCEDURES FOR CONDITIONAL USES PERMITS

Section 17.22.01 Conditional Uses

Conditional Uses are allowed for certain uses in some districts, as identified in Article II District Regulations. Uses not listed in Article II District Regulations as eligible for a Conditional use Permit shall not, in any circumstances, be granted a Conditional use Permit.

The following procedure for requesting a Conditional use Permit shall be followed:

1. The Board of Adjustment shall follow the following procedure in considering the recommendation of the Administrative Official. A Conditional Use Permit from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:
 - A. An application for a Conditional Use Permit, available from the Administrative Official, shall be completed by the landowner requesting the Conditional Use Permit. Any required attachments and fees as in Section 17.18.05 shall further accompany the application. The written application for a conditional use shall indicate the section of this Ordinance under which the conditional use is sought and stating the grounds on which it is requested; Completed applications shall be returned to the Administrative Official for review. To be considered by the Board of Adjustment, the application form shall be completed. If any of the information required by Section 17.18.02 has changed since the original Building Permit application, the revised, update or corrected information shall accompany the application for a Conditional Use Permit.
 - B. The Administrative Official shall review the application and forward it to the Board of Adjustment for their decision to either approve or not approve said application.
 - C. The Administrative Official shall set the date, time and place for a public hearing to be held by the Board of Adjustment. The Administrative Official shall notify the adjacent landowners (excluding streets and alley) by either mail or certified mail at the expense of the applicant, at least one week before the public hearing. The Administrative Official shall publish notice of the public hearing, with all costs to be paid by the applicant, not less than ten (10) days prior to the public hearing in a newspaper of general circulation in the area affected by the proposed Conditional Use Permit.
 - D. A public hearing shall be held. Any party may appear in person, or by agent or attorney;

- E. The Board of Adjustment shall rule that it is empowered under the section of this ordinance described in the application to grant the Conditional Use, and that the granting of the Conditional Use will not adversely affect the public interest; and
 - F. Before any Conditional Use shall be issued, the Board of Adjustment shall make written finding certifying compliance with the specific rules governing individual Conditional Uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:
 - i) Utilities, refuse, and service areas, with reference to locations, availability, and compatibility;
 - ii) Screening and buffering with reference to type, dimensions, and character;
 - iii) Required yards and other open space; and
 - iv) General compatibility with adjacent properties and other property in the district.
 - v) Entrance and exit to property and proposed and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
 - vi) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties.
 - vii) VII. Off-street parking and loading areas where required, with particular attention on effects of the conditional use on adjoining properties and properties generally within the district.
2. In order to preserve the intent of these Zoning Regulations and to protect the public interest, the Board of Adjustment may attach conditions to a Conditional Use Permit. A Conditional Use Permit shall remain valid only as long as the original applicant complies with any terms and conditions of the Conditional Use Permit, as attached by the Board of Adjustment.
 3. Approval of any application for a Conditional use permit shall be by a three-fourths (3/4) majority (6 votes) of all members of the Board of Adjustment.

Home Occupation: An occupation conducted in a dwelling unit, provided that the occupation is clearly secondary to the main use of the premises as a dwelling and does not change the character thereof or have any exterior evidence of such secondary use and:

1. No person other than members of the family residing on the premises shall be engaged in such occupation;
2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinated to its use for residential purposes by its occupants, and not more than 25 percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation;
3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding two (2) square-foot in area, non-illuminated, and mounted flat against the wall of the principle building; and
4. No equipment or process shall be used in such home occupation, which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
5. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood and any need for parking generated by the conduct of such home occupation shall be met off the street.
6. Notwithstanding the preceding standards, any operation that provides care for more than 12 children in a 24-hour period shall not be considered a home occupation.
7. Clinics, hospitals, mortuaries, motor vehicle repairing for hire, welding, animal hospitals and the maintenance of animals shall not be deemed to be home occupations.

CITY OF MILBANK
CONDITIONAL USE/VARIANCE APPLICATION

PERMIT NUMBER _____

APPLICANT (PRINT): _____ PHONE: _____

ADDRESS: _____

OWNER (PRINT): _____ PHONE: _____

IF DIFFERENT THAN APPLICANT

ADDRESS: _____

I/WE, THE UNDERSIGNED, DO HEREBY PETITION THE BOARD OF ADJUSTMENT OF THE CITY OF MILBANK SOUTH DAKOTA, TO ISSUE A CONDITIONAL USE PERMIT OR VARIANCE FOR THE PROPERTY DESCRIBED AS:

(CIRCLE APPROPRIATE)

LEGAL DESCRIPTION (Please print or type)

GENERAL AREA OR STREET ADDRESS: _____

EXISTING LAND USE: _____ **EXISTING ZONING:** _____

SIZE OF PARCEL: LOT DIMENSIONS: WIDTH _____ DEPTH _____

SURROUNDING LAND USE

NORTH: _____
SOUTH: _____
EAST: _____
WEST: _____

PLEASE DESCRIBE WHAT YOU PROPOSE TO DO AND WHY YOU ARE SEEKING A CONDITIONAL USE PERMIT (attach a separate sheet of paper if necessary)

IF YOUR ARE SEEKING A VARIANCE PLEASE PROVIDE A BRIEF STATEMENT OF THE VARIANCE DESIRED AND PLEASE STATE THE HARDSHIP REQUIRING RELIEF. (Proof of hardship is on the applicant - Hardship examples are odd size or shape of the lot, unusual topography, etc. attach a separate sheet of paper if necessary)

SIGNATURE OF APPLICANT _____

SIGNATURE OF OWNER (IF DIFFERENT THAN APPLICANT) _____

NOTE: A SKETCH OF PROPOSED PROPERTY SHALL ACCOMPANY THIS APPLICATION, SHOWING THE FOLLOWING:

- | | |
|------------------------------------------|-------------------------------------------------------|
| 1. NORTH DIRECTION | 5. LOCATION OF PROPOSED STRUCTURE ON LOT |
| 2. DIMENSIONS OF PROPOSED STRUCTURE | 6. DIMENSIONS OF FRONT, REAR, SIDE SET BACKS |
| 3. ADJACENT STREET NAMES | 7. LOCATION OF ADJACENT EXISTING BUILDINGS ON THE LOT |
| 4. OTHER INFORMATION AS MAY BE REQUESTED | |

THE BOARD OF ADJUSTMENT MAY REQUIRE THAT SUCH PLANS BE PREPARED BY A REGISTERED ENGINEER OR LAND SURVEYOR.

**PLEASE USE THE ATTACHED SKETCH INSTRUCTION SHEET FOR AN EXAMPLE.

FOR OFFICIAL USE ONLY

DATE FILED WITH ADMINISTRATIVE OFFICIAL: _____

FEE PAID (NON-REFUNDABLE): _____ YES _____ NO

DATE OF HEARING: _____

ACTION BY BOARD OF ADJUSTMENT: _____